

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 19, 2000

DIVISION ONE

B138279 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Claudia C. and Carlos C.

We affirm the challenged order.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

B141573 Ramona A. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department Of Children and Family Services, r.p.i.)

Petition denied by opinion.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

B130693 Camps (Not for Publication)
v.
Princess Cruises

We affirm the judgment. Princess is entitled to its costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

September 19, 2000-Continued

DIVISION ONE (Continued)

B136032 People v. Ogami (Not for Publication)

The judgment is reversed. The matter is remanded for a new trial.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B143218 American Bankers Insurance Co. (Not for Publication)
v.
Appellate Division of the Superior Court, Los Angeles County
(County of Los Angeles, r.p.i.)

The petition is granted. A peremptory writ of mandate shall issue commanding the Appellate Division (1) to vacate its order denying American's motion to reinstate its appeal and (2) to accept American's proposed opening brief for filing. American is to pay its own costs of these writ proceedings.

Vogel (Miriam A.), J.

I concur: Spencer, P.J.
I dissent: Ortega, J. (Opinion)

B134223 People (Not for Publication)
v.
Figueroa

We reverse Figueroa's conviction on count 1, murder. We remand the case for a new trial on that count. We affirm his conviction and the true finding on count 2, the assault. We vacate the sentence on count 2 and remand for a new sentencing hearing on that count.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

September 19, 2000-Continued

DIVISION ONE (Continued)

B137922 People (Not for Publication)
v.
Collins

We reverse the judgment. We remand for the trial court to set aside defendant's nolo contendere plea and set the matter for further proceedings.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION TWO

B135181 People (Not for Publication)
v.
Baptiste

The Court:

The judgment is affirmed.

Nott, Acting P.J., Cooper, J., Todd, J.

B137321 People
v.
Hernandez

Filed order modifying opinion. (No change in the judgment)

DIVISION THREE

Court convened at 9:30 A.M.

Present: Klein, P.J., Croskey, J., Kitching, J. and Valorie Gray, Deputy Clerk.

DIVISION THREE (Continued)

Each of the following:

B131690 Kuehn v. Kuehn
B134468 People v. Tarrango
B135437 People v. Houston
B131267 People v. Martin
B137412 People v. Diaz
B139414 People v. Prado
B135874 People v. Maloy
B134781 People v. Pagayan
B139116 People v. McKinney
B140987 People v. Toenesha P.
B137033 People v. Brooks
B139080 People v. Jacob E.
B136656 People v. Willoughby
B136289 People v. Lawrence
B140480 People v. Perez

Argument waived, cause submitted.

B132537 People
 v.
 Rhodes

Merits:

Argued by William L. Heyman for appellant and by Joana P. Castille,
deputy attorney general, for respondent. Cause submitted.

B124921 People
 v.
 Skelton

Merits:

Argued by Gerald M. Serlin for appellant and by David A. Wildman,
deputy attorney general, for respondent. Cause submitted.

DIVISION THREE (Continued)

B141817 Garcetti
 v.
 Superior Court, Los Angeles County
 (Blake, r.p.i.)

Merits:

Argued by Brent Riggs, deputy district attorney, for petitioner and by Todd L Melnik, for real party in interest. Cause submitted.

B133988 People
 v.
 Fearnley

Merits:

Argued by David Harrison for appellant and by Scott Quan, deputy attorney general, for respondent. Cause submitted.

B134030 In Re Estate of Marjorie MacDougall et al.
 v.
 Styles

Merits:

Argued by Donald S. Gordon for appellant and by Dirk L. Gustafson for respondents. Cause submitted.

B128298 Margolin
 v.
 Shemaria

Merits:

Argued by Robert E. Fisher for appellant and by Joseph Shemaria, respondent in propria persona. Cause submitted.

DIVISION THREE (Continued)

B131076 Rifat
 v.
 C.B.S., Inc.

Merits:
Argued by Roland Colton for appellant and by Frederick F. Mumm for respondent. Cause submitted.

B138437 Los Angeles County, D.C.F.S.
 v.
 Donna L.

Merits:
Argued by Tyna Thall Orren for appellant and by Patrick D. Goodman, deputy county counsel, for respondent. Cause submitted.

B128323 People
 v.
 Salinas et al.

Merits:
Argued by Nancy J. King and Steffan Imhoff for appellants and by David Wildman, deputy attorney general, for respondent. Cause submitted.

B120572 People
 v.
 Ayon

Merits:
Argued by Philip A. DeMassa for appellant and by Richard B. Cullather, deputy attorney general, for respondent. Cause submitted.

DIVISION THREE (Continued)

B134214 People
 v.
 Davitashuili

Merits:

Argued by Julie S. Hernandez for appellant and by Renee Rich, deputy attorney general, for respondent. Supplemental brief due by appellant on October 10, 2000, response due by the respondent on October 30, 2000. Submission deferred.

Court recessed at 1:00 P.M.

Court reconvened at 1:30 P.M.

Present: Klein, P.J., Croskey, J., Kitching, J. and Valorie Gray, Deputy Clerk.

B134048 People
 v.
 Zamora

Order to Show Cause:

Appearance made by Stella Jew, Custodian of Records for the Los Angeles Police Department and by Richard C. Byrne, deputy attorney general, for respondent. Matter to be submitted after argument on the merits is calendared.

B139673 D'SA
 v.
 Playhut, Inc.

Merits:

Argued by Michael J. Faber for appellant and by Henry Truskowski for respondent. Cause submitted.

DIVISION THREE (Continued)

B129361 Pressure Grout Company
 v.
 Signatures Restorations, Inc.

Merits:

Argued by A. Nick Shamiyeh for appellant and by Steven W. Weinshenk for respondent. Cause submitted.

B136692 Leon
 v.
 Beddo

Merits:

Argued by Emanuel Sedacca for appellant and by Marc Shapiro for respondent. Cause submitted.

B130666 Mona Boulevard Community Services, Inc.
 v.
 Williams et al.

Merits:

Argued by Paul A. Jacobs for appellant and by J. Stanley Sanders for respondents. Cause submitted.

B131005 People
 v.
 Scott

Merits:

Argued by Sharon L. Rhodes for appellant and by Renee Rich, deputy attorney general, for respondent. Supplemental brief of appellant due on October 10, 2000, response due of respondent on October 30, 2000. Submission deferred.

September 19, 2000-Continued

DIVISION THREE (Continued)

B143499 Woo et al.
v.
Superior Court, Los Angeles County
(Carey et al., r.p.i.)

Merits:

Argued by Frederic D. Woocher for petitioners and by Anthony S. Alperin, assistant city attorney, for real parties in interest. Cause submitted.

B138413 People
v.
Avila

Merits:

Argued by Christine C. Shaver for appellant and by Theresa A. Cochrane, deputy attorney general, for respondent. Cause submitted.

B137330 People
v.
Alvarez

Merits:

Argued by Barbara Gash for appellant and by Kenneth C. Byrne, deputy attorney general, for respondent. Cause submitted.

Court adjourned at 3:52 P.M.

DIVISION FOUR

B139848 People (Not for Publication)
v.
Cox

Appellant's appeal is dismissed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

September 19, 2000-Continued

DIVISION FOUR (Continued)

B140878 People (Not for Publication)
v.
Johnson

The orders are affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

B133998 In re Daniel M. Williams (Certified for Publication)
on
Habeas Corpus

The petition is granted and this matter is remanded to the trial court for further proceedings in accordance with the views expressed in this opinion. To be clear, the trial court shall vacate its order of July 16, 1997, set a noticed hearing to consider the recommendations of the Department of Corrections with the petitioner present and represented by counsel to determine if the sentence imposed by its order of June 13, 1996, is lawful insofar as it provides for presentence credits. If the trial court concludes that petitioner is not entitled to presentence credits, it shall amend the sentence to delete any unlawful provision and the petitioner may then elect to withdraw from the plea bargain.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

B128738 People
v.
Hampton

Filed order denying petition for rehearing.

DIVISION FIVE

109869-00

The HONORABLE WILLIAM R. WEISMAN, Judge of the Los Angeles Superior Court, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Five, as a Justice thereof, on the following dates:

October 1, 2000 to December 31, 2000

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters. This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: September 18, 2000

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

B141070 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Lisa A.
In re Christopher T.

The judgment is affirmed.

Turner, P.J.

We concur: Godoy Perez, J.
Weisman, J. (Assigned)

September 19, 2000-Continued

DIVISION FIVE (Continued)

B140516 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Arthur W.
In re Arthur W.

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

DIVISION SIX

[illegible]

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Coffee, J.

B139436 People (Not for Publication)
v.
Perrell

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

September 19, 2000-Continued

DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Yegan, J.

[illegible]

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B139349 People (Not for Publication)
v.
Escobedo

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

September 19, 2000-Continued

DIVISION SIX (Continued)

B138093 Hughes (Not for Publication)

V.

Primary Health Management Systems

The judgment is affirmed. Costs are awarded to respondent.

Perren, J.

We concur: Gilbert, P.J.

Coffee, J.

B136361 Troutt (Not for Publication)

V.

Ventura County Superior Court

(The People, r.p.i.)

Statutes that limit review to writ petitions are generally motivated by the desire of the Legislature to avoid delay and unnecessary expense because such procedures operate more quickly than an appeal. (*People v. Douglas* (1999) 20 Cal.4th 85, 93.) California Rules of Court, rule 2(d) requires that a legally effective notice of appeal reference a judgment or appealable order. Because the notice of appeal fails to do this here, the appeal is dismissed. Costs on appeal are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.

Coffee, J.

B136081 Wright (Not for Publication)

V.

Decker

The judgment is affirmed. Costs are awarded to respondent.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

September 19, 2000-Continued

DIVISION SIX (Continued)

[illegible]

The judgment (order denying the section 473 motion to vacate dismissal) is affirmed. Respondents are awarded costs on appeal.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B133089 People (Not for Publication)
v.
Batiste

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

B139759 People (Not for Publication)
v.
Anthony Manuel B.

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Coffee, J.

DIVISION SEVEN

B139227 People (Not for Publication)
v.
Stoudemire-Thomas

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

[illegible]

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B141656 Jovan S. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County, D.C.F.S., r.p.i.)

The petition is denied on the merits.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

September 19, 2000-Continued

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B138289 Los Angeles County, D.C.S. (Not for Publication)
v.
Jeannine P.
In re Timothy A., a minor

The order of the juvenile court is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B137272 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Leamon Ray S. and Pooran S.
In re Roxanna S., a minor

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B131130 Breakzone Billiards (Not for Publication)
 v.
 La Caze Development Company

The portion of the judgment entered on the jury verdict is affirmed. The portion of the judgment denying attorney's fees is reversed and the cause is remanded with directions to award appellant's attorney fees, reasonably expended in defending the specific contract claim at this trial, and no other. Appellants to recover their costs of appeal.

Johnson, J.

We concur: Lillie, P.J.
 Woods, J.

B128058 Cruz
 v.
 HomeBase

Filed order denying petitions for rehearing. (This order modifies the order of September 14, 2000, which failed to state in text of the order that rehearing petitions were denied.)